



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105

July 15, 1991

Mr. John E. Schrote
Assistant Secretary Designate Policy, Management, and Budget
United States Department of the Interior
1849 C Street, SW
Washington D.C. 20240

Certified Mail
and Return Receipt Requested
P 918 446 929

RE: Interagency Agreement, Bluewater Uranium Mine Sites,
Prewitt, New Mexico

Dear Mr. Schrote:

The United States Environmental Protection Agency (EPA) has documented the release or threatened release of hazardous substances, pollutants or contaminants at the Bluewater Uranium Mining Sites. Robert Bornstein of my staff has been working with Raymond Churan, Department of the Interior, Office of Environmental Affairs, Albuquerque, in drafting the enclosed Interagency Agreement.

The Bluewater Uranium Mining Sites consist of the Brown-Vandever-Nanabah mines and the Navajo-Desiderio mine. The Brown-Vandever-Nanabah Site lies within the Bluewater USGS Quadrangle and encompasses two Indian Allotment parcels (Section 18, Township 13N, Range 10W and Section 24, Township 13N, Range 11W), one Federal parcel administered by the Department of Energy (Section 13, Township 13N, Range 11W) and one privately owned parcel (Section 19, Township 13N, Range 10W). The Navajo Desiderio mine is located on Indian Allotted land within Section 26, Township 13N, Range 10W of the Bluewater USGS Quadrangle.

In November of 1990, the Agency for Toxic Substance and Disease Registry (ATSDR) issued a Public Health Advisory notifying the Environmental Protection Agency and other governmental agencies of the potential health hazards associated with the uranium mine waste and tailings at the Sites. EPA has spent, and will continue to spend, public funds to investigate and control the releases of hazardous substances at the Sites. EPA is conducting these response actions pursuant to Section 104 of the Comprehensive Environmental Response, Compensation and Liability

Act of 1980, 42 U.S.C. Section 9604, as amended, and Sections 300.410 and 300.415 of the National Contingency Plan (NCP), 40 C.F.R. Part 300.

EPA has reason to believe that the release and threatened release of hazardous substances from the uranium mine pit surfaces, mining overburden and abandoned ore debris and mine tailings at the Bluewater Sites present an imminent and substantial endangerment to public health, welfare and the environment. Based on investigations performed to date, EPA has concluded that a removal action must be conducted at the Sites to: (1) reduce surface emissions of gamma radiation and provide radon gas barriers, and (2) restrict public access to the Sites.

Due to the serious potential health hazards associated with the radiation and radionuclide levels found at the Sites, EPA has concluded that the proposed removal actions must begin as soon as possible. A preliminary copy of EPA's Action Memorandum was distributed to the Department of Interior during the Bluewater Interagency meeting held in Grants, New Mexico on June 3, 1991. At this time, EPA is in the process of obtaining funding approval to conduct the proposed actions and is preparing to commence work at the Sites in late-July.

EPA wishes to work with the Department of Interior in implementing this response action at the Sites. Pursuant to the Indian Long-Term Leasing Act of 1938, 25 U.S.C. Section 396, the Indian Mineral Leasing Act of 1938, 25 U.S.C. Sections 396a-396g, and Federal regulations contained in 25 CFR Part 212, Leasing of Allotted Lands for Mining, 25 CFR Part 216, Surface Exploration, Mining, and Reclamation of Lands, 43 CFR Part 3500, Leasing of Solid Minerals other than Coal and Oil Shale, and 43 CFR Part 3590, Solid Minerals (Other than Coal) Exploration and Mining Operations-General, the Department of the Interior's Bureau of Land Management and Bureau of Indian Affairs share responsibility for overseeing and administering leases for mining operations on Indian lands, including Allotments. EPA is requesting that the Department of Interior, as a Federal Trustee for the lands in question, assist EPA by providing financial support for the proposed response by EPA on the Allotted lands in question.

We are enclosing for your review and comment a draft Interagency Agreement (IAG) through which the Department of Interior agrees to reimburse the Environmental Protection Agency for certain costs incurred by EPA in connection with the proposed emergency response action on the Indian Allotment land portion of the Bluewater Uranium Sites. Should you have further questions regarding this IAG, please contact the EPA Project Officer, Robert Bornstein, at (415) 744-2298. Legal questions should be directed to Linda Wandres of EPA's Office of Regional Counsel, at

(415) 744-1359. Due to the urgency of this matter, EPA is requesting that you provide Region IX with specific comments on the IAG within seven (7) calendar days of receipt of this letter.

Sincerely,


Jeff Zelikson, Director
Hazardous Waste Management Division

cc: Jonathan P Deason, Director DOI/OEA
Raymond P. Churan, DOI/OEA, Albuquerque
Patricia S Port, DOI/OEA, San Francisco

United States Environmental Protection Agency Washington, DC 20460 Interagency Agreement/ Amendment Part 1 - General Information		1. EPA IAG Identification Number 2. Other Agency IAG ID Number (if known) 3. Type of Action New Agreement		4. Funding Location by Region 5. Program Office Abbreviation HWMD			
6. Name and Address of EPA Organization Hazardous Waste Management Division 75 Hawthorne Street San Francisco, CA 94105			7. Name and Address of Other Agency Department of the Interior Assistant Secretary Policy, Management and Budget, Mail Stop 6214 (MIB) 1849 C Street, S.W. Washington, D.C. 20240				
8. Project Title Emergency Response Action at the Bluewater Uranium Mine Sites, Prewitt, New Mexico							
9. EPA Project Officer (Name, Address, Telephone Number) Robert E. Bornstein, OSC Emergency Response Section H-8-3 75 Hawthorne Street San Francisco, CA 94105 FTS 484-2298			10. Other Agency Project Officer (Name, Address, Telephone Number) Jonathan P. Deason, Director, OEA Department of the Interior 1849 C Street, S.W. Washington, D.C. 20240 FTS 268-3891				
11. Project Period July 15 - Aug 30, 1991			12. Budget Period 4th Quarter				
13. Scope of Work (Attach additional sheets, as needed) Pursuant to Section 104 of CERCLA, Sections 300.100, 300.170, 300.175, 300.410 and 300.415 of the National Contingency Plan, (NCP), 40 CFR Part 300, the Snyder Act 25 U.S.C. Section 13, the United States Department of the Interior (USDI) and the United States Environmental Protection Agency (EPA), agree to work together to perform site stabilization activities to reduce the immediate radiological hazards on the Indian Allotted lands occupying Section 18 and 24, Township 13N, Range 10W (the Brown-Vandever-Nanabah Sites) and Section 26, Township 13N, Range 11W (the Desiderio Site) of the Bluewater USGS Quadrangle. EPA will perform the following services as outlined in Attachment 1, which also provides an estimate of anticipated costs. USDI agrees to reimburse EPA for certain expenditures incurred on the above-referenced Indian Allotted lands in addressing ATSDR's Health Advisory (November, 1990). In agreeing to perform and pay for the removal activities covered by this Agreement, EPA and USDI admit no liability with regard to the release or threatened release of hazardous substances from these Sites. (See Item 28 - Special Conditions). Site ID number is W3.							
14. Statutory Authority for Both Transfer of Funds and Project Activities CERCLA, NCP, Economy Act of 1932 as amended					15. Other Agency Type Federal		
Funds		Previous Amount		Amount This Action		Amended Total	
16. EPA Amount							
17. EPA In-Kind Amount		TO BE DETERMINED AT COMPLETION OF PROJECT					
18. Other Agency Amount							
19. Other Agency In-Kind Amount							
20. Total Project Cost						\$242,852.00 IAG Estimate	
21. Fiscal Information							
Program Element	FY	Appropriation	Doc. Control No.	Account Number	Object Class	Obligation/Deobligation Amt.	

Part II - Approved Budget		EPA IAG Identification Number
22. Budget Categories	Itemization of This Action	Itemization of Total Project Estimated Cost to Date
(a) Personnel	\$	\$
(b) Fringe Benefits		
(c) Travel		
(d) Equipment	See Attachment 1 for project Cost Estimation	
(e) Supplies		
(f) Procurement/Assistance		
(g) Construction		
(h) Other		
(i) Total Direct Charges	\$	\$
(j) Indirect Costs: Rate % Base \$		
(k) Total		
(EPA Share %) (Other Agency Share %) \$		\$ 341,087.00 Total Estimate
23. Is equipment authorized to be furnished by EPA or leased, purchased, or rented with EPA funds? (Identify all equipment costing \$1,000 or more) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 		
24. Are any of these funds being used on extramural agreements? (See Item 22f) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No 		
Type of Extramural Agreement <input type="checkbox"/> Grant <input type="checkbox"/> Cooperative Agreement <input checked="" type="checkbox"/> Procurement (Includes Small Purchase Order)		
Contractor/Recipient Name (if known) Laguna Construction P.O. Box 194 Laguna, NM 87026 505-242-0506	Total Extramural Amount Under This Project Total Project Estimate \$341,087.00	Percent Funded by EPA (if known) 71% USDI (\$242,852.00) 29% EPA (\$98,235.00)
Part III - Funding Methods and Billing Instructions		
25. <input type="checkbox"/> Funds-Out Agreement (Note: EPA Agency Location Code (ALC) - 68010727)		
<input type="checkbox"/> Disbursement Agreement		
<input type="checkbox"/> Repayment Request for repayment of actual costs must be itemized on SF 1081 or SF 1080 and submitted to the Financial Management Center, EPA, Cincinnati, OH 45268:		
<input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Upon Completion of Work		
<input type="checkbox"/> Advance Only available for use by Federal agencies on working capital fund or with appropriate justification of need for this type of payment method. Unexpended funds at completion of work will be returned to EPA. Quarterly cost reports will be forwarded to the Financial Management Center, EPA, Cincinnati, OH 45268.		
<input type="checkbox"/> Allocation Transfer-Out Used to transfer obligational authority or transfer of function between Federal agencies. Must receive prior approval by the Office of the Comptroller, Budget Division, Budget Formulation and Control Branch, EPA Headquarters. Forward appropriate reports to the Financial Reports and Analysis Branch, Financial Management Division, PM-226F, EPA, Washington, DC 20460.		
26. <input checked="" type="checkbox"/> Funds-In Agreement		
<input checked="" type="checkbox"/> Reimbursement Agreement <input checked="" type="checkbox"/> Repayment		
<input type="checkbox"/> Advance		
<input type="checkbox"/> Allocation Transfer-In		
Other Agency's IAG Identification Number		EPA Program Office Allowance Holder/Responsibility Center Number
Other Agency's Billing Address (Include Agency Location Code or Station Symbol Number)		Other Agency's Billing Instructions and Frequency

Part IV - Acceptance Conditions		EPA IAG identification Number
27. General Conditions The other agency covenants and agrees that it will expeditiously initiate and complete the project for which funds have been awarded under this agreement.		
28. Special Conditions <i>(Attach additional sheets if needed)</i> This agreement may be terminated by either Agency upon thirty (30) days advanced written notice, prior to start of work. Any requirements for payment or obligation of funds, by the USDI established by the terms of this agreement shall be subject to the availability of appropriated funds, and no provisions herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. Section 1341. The USDI agrees to reimburse EPA for all contractual costs associated with this response action on the Indian Allotted lands. EPA will submit to the USDI a demand for reimbursement associated with Site response activities incurred on Indian Allotted Lands following the completion of the removal action. The parties agree to amend this Agreement at a later date in accordance with any subsequent national resolution of the issue of cost reimbursement between Federal agencies. Pending such a resolution, EPA reserves any rights it may have with respect to cost reimbursement pursuant to this Agreement. (Continued on Attachment 2).		
Part V - Offer and Acceptance		
Note: 1) For Funds-out actions, the agreement/amendment must be signed by the other agency official in duplicate and one original returned to the Grants Administration Division for Headquarters agreements or to the appropriate EPA Regional IAG administration office within 3 calendar weeks after receipt or within any extension of time as may be granted by EPA. The agreement/amendment must be forwarded to the address cited in Item 29 after acceptance signature. Receipt of a written refusal or failure to return the properly executed document within the prescribed time may result in the withdrawal of the offer by EPA. Any change to the agreement/amendment by the other agency subsequent to the document being signed by the EPA Action Official, which the Action Official determines to materially alter the agreement/amendment, shall void the agreement/amendment. 2) For Funds-in actions, the other agency will initiate the action and forward two original agreements/amendments to the appropriate EPA program office for signature. The agreements/amendments will then be forwarded to the appropriate EPA IAG administration office for acceptance signature on behalf of the EPA. One original copy will be returned to the other agency after acceptance.		
EPA IAG Administration Office (for administrative assistance) 29. Organization/Address Office of Policy and Management EPA Region IX (P-2-2) 75 Hawthorne Street San Francisco, CA 94105	EPA Program Office (for technical assistance) 30. Organization/Address Hazardous Waste Management Division EPA Region IX (H-8-3) 75 Hawthorne Street San Francisco, CA 94105	
Certification All signers certify that the statements made on this form and all attachments thereto are true, accurate, and complete. Signers acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.		
Decision Official on Behalf of the Environmental Protection Agency Program Office		
31. Signature	Typed Name and Title Jerry Clifford, Deputy Direct HWMD	Date
Action Official on Behalf of the Environmental Protection Agency		
32. Signature	Typed Name and Title Jeff Zelikson, Director HWMD	Date
Authorizing Official on Behalf of the Other Agency		
33. Signature	Typed Name and Title John E. Schorte, Assistant Sec. USDI	Date

**ATTACHMENT 1
INTERAGENCY AGREEMENT**

The Environmental Protection Agency's Emergency Response Section will provide the following services on the following Indian Allotted lands:

Brown-Vandever-Nanabah Mine Sites
Desiderio Mine Site

Pursuant to Section 300.415 of the National Contingency Plan, EPA will conduct site stabilization actions at both Sites to reduce the immediate radiological hazards resulting from previous mining activities.

To accomplish this task, EPA plans to conduct the following actions:

TASKS TO BE PERFORMED ON ALLOTTED LANDS

- 1) EPA will conduct an extensive ground gamma survey at both Sites to delineate and define "radiological hot spots". These spots will have an average gamma radiation reading greater than or equal to 165 uR/hr.
- 2) Areas with frequent public and grazing use that are determined to be "hot spots" will be backfilled and covered by an earth cover to reduce the gamma emissions to below 57 uR/hr above background and the radon gas emissions to below 3 pCi/l. EPA will also hydroseed the treated zones at a future date.
- 3) EPA will post signs warning of radiological hazards in English, Spanish and Navajo.
- 4) EPA will fill, seal and cap mine adits, inclines and ventilation shafts to reduce radon gas emissions.
- 5) EPA will provide biweekly progress reports in the form of Pollution Reports (POLREPS) to the USDI Project Officer. At the completion of the project, EPA will provide the USDI with a copy of the OSC report. EPA will also submit to the USDI a detailed report of incurred costs on Indian Allotted lands.

The United States Department of the Interior will assist EPA in conducting this action by:

- 1) Providing financial support as agreed upon by this IAG.
- 2) Providing EPA access and permission to a top soil borrow pit.

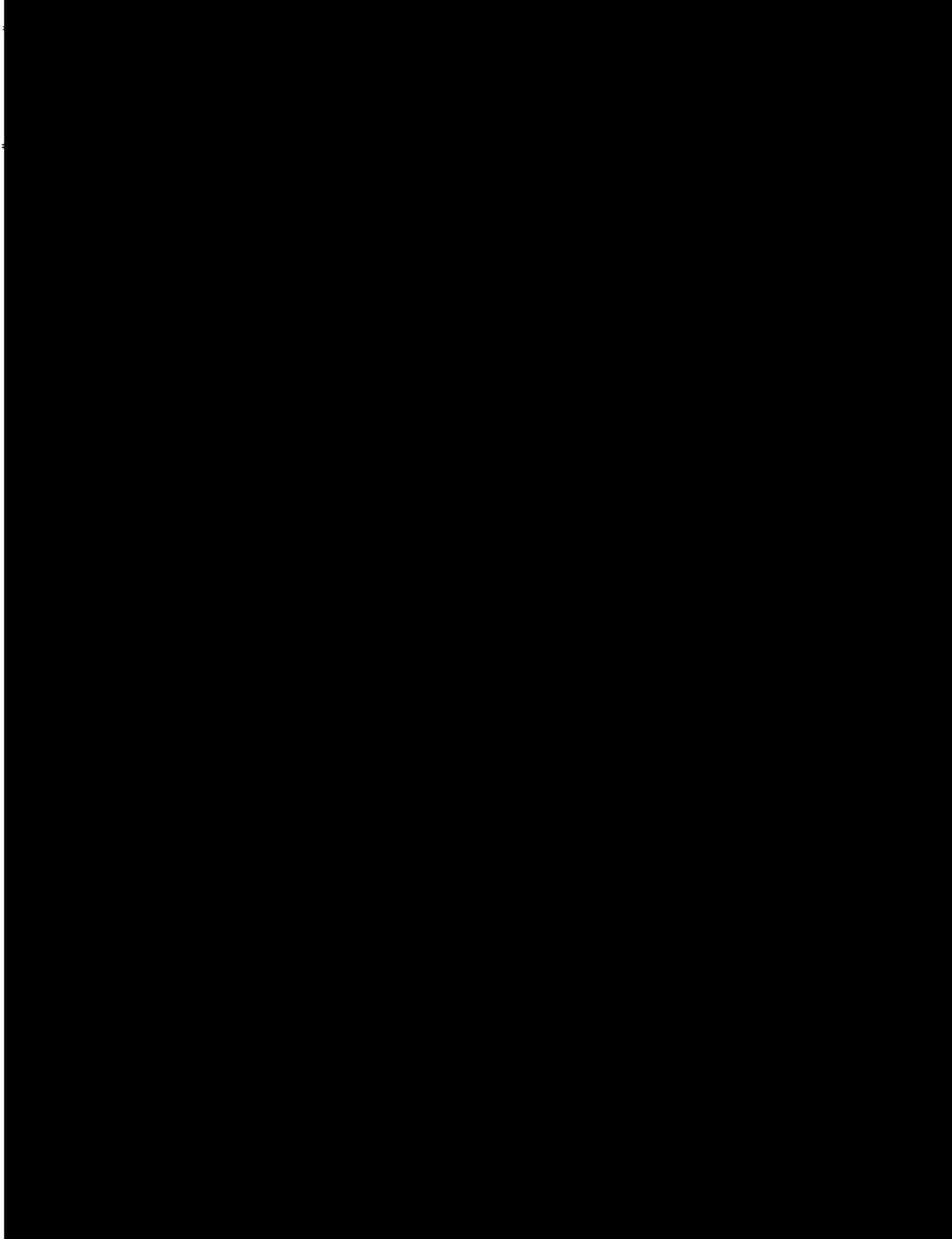
- 3) Assisting EPA in gaining access to the Sites and providing technical assistance to EPA as needed.

Exemption 5

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Exemption 5



Exemption 5

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ATTACHMENT 2
INTERAGENCY AGREEMENT

(Item 28 Continued)

The EPA, as the Agency providing the Federal On-Scene-Coordinator, shall provide a report which summarizes the EPA activities at the Sites upon completion of the removal activities.

The EPA will provide coordination to insure that the tasks to be performed on the DOE and private lands located adjacent to the Brown-Vandever-Nanabah mine site will be completed on the same approximate schedule as those to be performed on Indian Allotted Lands.

This IAG does not constitute, and should not be viewed as a model or precedent for reimbursement of response actions generally on Indian Allotted Lands.

A breakdown of charges is not currently available; however, it will be provided prior to EPA's request for reimbursement.

The final reimbursement request will be made in the form of a letter and will be accompanied by Removal Cost Management System documentation that will serve as the accounting of EPA's expenditures. Payment shall be made by federal funds transfer to:

United States Environmental Protection Agency
Financial Management Section
26 West Martin Luther King Drive
Cincinnati, Ohio 45268